



Investigation File No.: C-24-02-104
Hearing File No.: H-25-04-005

**IN THE MATTER OF *THE MOTOR DEALER ACT*, R.S.B.C. 1998, c.316 and
THE BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, S.B.C. 2004, c.2**

BETWEEN:

THE VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA

THE AUTHORITY

AND:

OMRAN AHMAD

CONSUMER COMPLAINANT

AND:

MESSIAH MOTOR CARS INC.
(Dealer License 30660)

RESPONDENT/MOTOR DEALER

AND:

BRUCE CHAN
(Salesperson Licence 109172)

RESPONDENT/SALESPERSON

DECISION OF THE REGISTRAR OF MOTOR DEALERS

Date and location of decision: August 14, 2025 at Langley, British Columbia

By way of written submissions

I. Introduction

1. This proceeding arises out of a consumer complaint received by the Authority on February 8, 2024, from Omran Ahmad ("Mr. Ahmad") concerning his purchase of a 2017 Mitsubishi RVR ("the Vehicle") from Messiah Motor Cars Ltd. ("Messiah") on November 16, 2023.

2. In his Complaint, Mr. Ahmad alleges that the Vehicle was unsafe to drive despite representations to the contrary made by salespeople prior to his purchase and employed at the time by Messiah. He further alleges that the Vehicle was not marked or otherwise identified as being unsuitable for transportation at the time of his purchase and that Messiah engaged in deceptive acts or practices in relation to his purchase of the Vehicle.
3. The hearing of this matter proceeded by way of written submissions. Mr. Ahmad was served with a copy of the Authority's Hearing Notice and was advised therein of his right to participate in the hearing. He was also served with Respondents' Response to the Hearing Notice and the Authority's Reply. The time for Mr. Ahmad to provide submissions as provided for by Rule 30.1 of the Registrar's Rules has expired with no submissions being received from him. The Respondents did not provide a Sur-Reply to the Authority's Reply.

II. Background Facts

4. The facts of this matter are as set out in the affidavit of Jared Collier sworn April 28, 2025. Mr. Collier is an Investigation Officer employed by the Authority. The Respondents did not submit any affidavit evidence with their Response.
5. Mr. Collier's affidavit states that Mr. Ahmad attended Messiah's place of business with his brother on November 16, 2023. He was told by a salesperson employed by Messiah named Robert Barinj that the Vehicle had passed a safety inspection and was safe to drive. Mr. Ahmad then purchased the Vehicle for \$17,450.03. A copy of the Purchase Agreement is attached to Mr. Collier's affidavit. In it, the question of whether the Vehicle complied with the requirements of the *Motor Vehicle Act* is answered "Yes True". The Purchase Agreement includes a section which allows for the purchaser to acknowledge by signature their knowledge that the vehicle is not suitable for transportation and sold for parts only. That section is unsigned.
6. A few days following his purchase, Mr. Ahmad noticed unusual noises coming from the Vehicle. He called and spoke to Mr. Barinj who advised him to take the Vehicle to a Mitsubishi dealership.

7. On December 20, 2023, Mr. Ahmad attended at Chilliwack Mitsubishi where the Vehicle underwent an inspection. He was advised by Chilliwack Mitsubishi that the Vehicle should not be driven as its wheel bearings were severely worn.
8. A Service Order prepared by Chilliwack Mitsubishi and dated December 20, 2023 states: "LEFT AND RIGHT WHEEL BEARINGS REQUIRED. PARTS ON ORDER. VEHICLE IS NOT RECOMMENDED TO DRIVE AS BEARINGS ARE SEVERLY [sic] WORN OUT." The amount invoiced in the service Order is \$0.00. It is not clear when or if the work described in the Service Order was completed.
9. Mr. Ahmad retrieved the Vehicle from Chilliwack Mitsubishi on January 3, 2024. At that time, he was advised that the front and rear brake pads and rotors also needed to be replaced. A Service Estimate for those repairs dated January 4, 2024 in the amount of \$1,540.51 was prepared by Chilliwack Mitsubishi.

III. Authority Investigation

10. In the course of the Authority's investigation of Mr. Ahmad's complaint, the Respondents provided a copy of an undated General Inspection Report ("the Report") concerning the Vehicle. This Report indicates that the front brakes were measured at 40% each while the rear brakes were at 30% each. The Report further indicated that the Vehicle's front wheel bearings "need L/R".
11. In addition to the comments in the Report concerning the Vehicle's brakes and wheel bearings, it included additional findings as follows:
 - There was "Noticeable Body Damage"
 - The "Check Engine" and "Tire Pressure Warning" lights were on
 - There was "Suspension Noise" attributable to a bearing
 - There was damage to the windshield
 - The handwritten note next to "License Plate Lights" stated "need one".
12. On October 17, 2024, the Report was provided by Mr. Collier to Jim MacMillan who is a Supervisor with the BC Commercial Vehicle Safety and Enforcement which is a branch of the Ministry of Transportation and Transit. The CVSE is responsible for the Vehicle

Inspection and Standards program which applies the *Motor Vehicle Act* and its regulations through private and commercial vehicle inspections. Mr. Collier sought Mr. MacMillan's determination as to whether the Vehicle would have complied with the *Motor Vehicle Act* ("MVA") at the time it was purchased by Mr. Ahmad from Messiah. Mr. MacMillan responded by email the same day stating as follows:

The vehicle would not have complied in the following areas

Tire pressures in [sic] they were less than 50%

Body damaged if sharp edges

Lights inoperative

Windshield if damaged/cracks

Wheel bearings if loose or damaged

13. Included as an exhibit in Mr. Collier's affidavit is an "Undertaking Investigation Report" dated April 1, 2025 and prepared by Mr. Collier. In it, he documents his investigation including a February 5, 2025 meeting that he had with the Respondent Mr. Chan who is Messiah's General Manager and Dealer Principal. Mr. Collier states at paragraph 21 of his affidavit as follows:

During the meeting on **February 5, 2025, Mr. Chan** indicated that he was aware of the issues with the ball joints prior to sale, however, he felt pressured from the salesperson and consumer to sell the car as it was. He also stated that the vehicle should not have been sold in the state it was in.

(emphasis added)

IV. Positions of the Parties

a. The Authority

14. The Authority's position is as set out in the Hearing Notice dated April 28, 2025:

- a. That Messiah committed or engaged in a deceptive act or practice in respect of a consumer transaction contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c.2 by:

- i. making oral, written, visual, descriptive or other representations that [the Vehicle] was of a particular standard or quality when it was not, within the meaning of paragraph 4(3)(a)(ii) of the *Business Practices and Consumer Protection Act*, S.B.C. 2004; and/or
 - ii. making oral, written, visual, descriptive or other representations that use exaggeration, innuendo or ambiguity about a material fact, or that fail to state a material fact, where the effect is misleading, within the meaning of paragraph 4(3)(b)(vi) of the *Business Practices and Consumer Protection Act*, S.B.C. 2004;
- b. That Messiah failed to ensure that any written representation including every purchase order, sales agreement or form of contract used in a consumer transaction for the purchase of a motor vehicle not intended for transportation contains a statement that the motor vehicle is not suitable for transportation and is sold for parts only or purposes other than transportation, contrary to section 22 of the *Motor Dealer Act Regulation* (B.C. Reg. 447/78);
 - c. That Messiah failed to affix information to a vehicle that is not suitable for transportation in a clear and legible manner the statement “Not Suitable for Transportation”, contrary to subsection 27(b) of the *Motor Dealer Act Regulation* (B.C. Reg. 447/78); and
 - d. That Messiah aided, abetted or caused Ahmad to contravene section 75 of the *Motor Vehicle Act*, R.S.B.C. 1996, c.318 by allowing the vehicle to be driven from the dealership and onto public roads when it was unsuitable for transportation, contrary to paragraph 33(2)(i)(iii) of the *Motor Dealer Act Regulation* (B.C. Reg. 447/78).

b. The Respondents

- 15. In their Response, the Respondents admit that Messiah committed or engaged in a deceptive act or practice in respect of a consumer transaction contrary to section 5(1) of the *Business Practices and Consumer Protection Act* (“BPCPA”) by making an oral, written, visual, descriptive or other representation that the Vehicle was of a particular standard or quality when it was not, within the meaning of section 4(3)(a)(ii) of the BPCPA.
- 16. The Respondents deny each of the remaining allegations included in the Hearing Notice.

V. Remedy Sought by the Authority

17. The Authority seeks the imposition of the following administrative penalties:

- a. \$20,000.00 upon Messiah pursuant to section 164 of the BPCPA; and
- b. \$40,000.00 upon Messiah pursuant to section 26.04 of the MDA;

18. The Authority further seeks a Compliance Order which includes the following:

- a. An order that Messiah reimburse money to Mr. Ahmad or otherwise compensate him pursuant to section 26.02(4) of the MDA and section 155(4) of the BPCPA; and
- b. An order that Messiah reimburse the Authority all or part of its actual costs, including actual legal costs, incurred in the inspection and investigation of the contraventions alleged in the Hearing Notice pursuant to section 26.02(4) of the MDA and section 155(4) of the BPCPA.

19. The Authority does not seek any remedies or penalties against Mr. Chan.

VI. Legal Principles

a. Deceptive acts or practices – BPCPA section 5(1)

20. The BPCPA regulates licensees and includes enforcement provisions to ensure compliance with that legislation. It contains consumer protection provisions which set conduct expectations for suppliers and provides consumers with rights and remedies if they suffer harm due to a breach of those rights. Certain consumer protection provisions of the BPCPA have been incorporated into the MDA for administration by the Registrar: *Webster and VSA v. Pioneer Garage Ltd et al*, 2017-BCRMD-013.

21. Section 5(1) of the BPCPA prohibits suppliers from committing or engaging in a deceptive act or practice in respect of a consumer transaction. Where a deceptive act or practice is alleged by a consumer, the burden of proof shifts to the supplier to demonstrate that it was not committed or engaged in: section 5(2).

22. A “deceptive act or practice” is defined by section 4(1) as meaning in relation to a consumer transaction:

- (a) an oral, written, visual, descriptive or other representation by a supplier, or
- (b) any conduct by a supplier that has the capability, tendency or effect of deceiving or misleading a consumer or guarantor.

23. Section 4(3) of the BPCPA provides examples of conduct that the British Columbia Legislature has deemed to constitute deceptive acts and practices. This includes but is not limited to misrepresenting the standard or quality of a motor vehicle or failing to state a material fact in relation to a consumer transaction.

24. A deceptive act or practice may be innocent, negligent, or deliberate conduct by a dealer or salesperson: *Webster, supra*.

25. Where a consumer seeks damages under the BPCPA that are the result of a supplier committing a deceptive act or practice, common law considerations of reasonable reliance, a connection between the breach and the harm and the quantum of damages arising out of the harm must be met by the consumer: *Webster, supra*

b. Motor Dealer Act Regulation section 22

26. I note that in the Hearing Notice, the Authority alleges at paragraph 11(b) that the Respondents breached section 20 of the *Motor Dealer Act Regulation* ("MDAR"). The Respondents provided a general denial in its Response to that allegation, stating that section 20 "has no relevance to the allegation" or in the alternative, the facts as stated do not support a finding under section 20.

27. In its Reply, the Authority notes at paragraph 9 that the inclusion of section 20 in the Hearing Notice was the result of a typographical error and that the correct section is in fact section 22 of the MDAR.

28. While the Hearing Notice did not include the correct section of the MDAR, the correction by the Authority in its Reply provided the Respondents with proper notice of the allegation and as such, it knew the case it had to meet. Despite that, the Respondents elected not to prepare a Sur-Reply to the Authority's Reply despite being permitted to do so under Rule 30.1(e) of the Registrar's Rules.

29. Section 22 of the MDAR protects consumers from purchasing vehicles that are unsuitable for transportation without their knowledge. A motor dealer must include a statement in any

purchase agreement used in the purchase of such a vehicle that it is not suitable for transportation and is sold for parts only or for purposes other than transportation. The inclusion of such a statement prevents a motor dealer from encouraging a consumer to purchase a vehicle, only to be told after the fact that the vehicle is not suitable for transportation: *Re: Best Import Auto Ltd et al.* 2017-BCRMD-017 at para.24.

c. Motor Dealer Act Regulation section 27(b)

30. Section 27(b) of the MDAR complements section 22 insofar as it serves to provide notice to prospective purchasers of used vehicles that are not suitable for transportation. A motor dealer that exhibits or offers for sale a used motor vehicle that is not suitable for transportation, must physically attach to it in a clear and legible manner the statement “Not Suitable for Transportation.” This notice must be physically attached to the vehicle: *Pham et al, v. Super Sale Auto Ltd. et al.* 2019-BCRMD-021 at para.6

d. Motor Dealer Act Regulation section 33(2)(i)(iii)

31. A licensee or registrant while acting in the course of business must not aid, abet or cause a person to contravene any law of British Columbia or of another jurisdiction. This provision requires motor dealers to act lawfully, not cause anyone else to break the law, as well as not counsel or assist someone to break the law: *Re: Tibbo* 2019-BCRMD-030 at para.21.
32. This provision frequently operates in conjunction with section 219 of the *Motor Vehicle Act* (“MVA”) which prohibits a person from driving or operating a motor vehicle on a highway unless it is equipped in all respects in compliance with that Act and its regulations. Therefore, if a motor dealer sells a motor vehicle that is not compliant with the MVA or its regulations and aids, abets or causes consumer to drive that vehicle on a highway contrary to section 219 of the MVA, the motor dealer is in breach of section 33(2)(i)(iii) of the MDAR.

VII. Analysis

a. Deceptive Act – Misrepresenting that the Vehicle was of a particular standard or quality

33. As noted above, the Respondents admit in their Response that Messiah committed or engaged in deceptive act or practice contrary to section 5(1) of the BPCPA by misrepresenting the Vehicle’s standard or quality within the meaning of section 4(3)(a)(ii). I therefore find that Messiah breached section 5(1) of the BPCPA in that respect.

b. Deceptive Act – Representing that the Vehicle had passed a safety inspection and was safe to drive

34. In Mr. Ahmad's complaint, he says he was told by Mr. Barinj that the Vehicle had passed a safety inspection and that it was safe to drive. Mr. Ahmad further says that he relied on that advice and purchased the Vehicle. Approximately one month following his purchase, Mr. Ahmad was advised by Chilliwack Mitsubishi that the Vehicle's left and right wheel bearings were severely worn out and that the Vehicle was not recommended for driving. Mr. MacMillan later confirmed that the Vehicle would not have been in compliance with the MVA based on the findings in the Report, specifically, the damaged wheel bearings.
35. Mr. Ahmad was told when he retrieved the Vehicle from Chilliwack Mitsubishi that it required new brakes and those repairs were completed at a cost of \$1,540.51. However, there is no evidence to suggest that the condition of the brakes, prior to their replacement, caused the Vehicle to be unsafe or unsuitable for transportation. I do not find that the Respondents committed or engaged in a deceptive act or practice with respect to the condition of the Vehicle's brakes.
36. Having alleged that the Respondent committed or engaged in a deceptive act by misrepresenting the safety of the Vehicle, and having tendered some evidence in support of that allegation, the burden of proof shifts to the Respondents to refute that allegation: *Crown Auto Body and Auto Sales Ltd. v. Motor Vehicle Sales Authority of British Columbia*, 2014 BCSC 894 (BC Supreme Court at paragraphs 24-25). In its Response, the Respondents address this by simply stating that "The facts alleged in the Written Hearing Notice do not support a finding under subsection 4(3)(b)(vi) of the *Business Practices and Consumer Protection Act*". The Respondents have offered no evidence to refute this allegation, and I accordingly find that they have not satisfied their burden of proof.
37. The unchallenged evidence is that Mr. Barinj advised Mr. Ahmad that the Vehicle was safe and that it had passed a safety inspection. Mr. Ahmad relied on that representation and purchased the Vehicle. This turned out to be untrue given the subsequent mechanical inspection and opinion of Mr. MacMillan in relation to the wheel bearings. I therefore find that Messiah breached section 5(1) of the BPCPA by committing or engaging in a deceptive act or practice by using exaggeration, innuendo or ambiguity about a material fact within the meaning of section 4(3)(b)(vi), specifically, that the vehicle was safe to drive and that it had passed a safety inspection, and which was relied upon by Mr. Ahmad

c. Section 22 Motor Dealer Act Regulation – Purchase agreement must state “Not Suitable for Transportation”

38. The evidence provided by the Authority clearly indicates that the Vehicle was not suitable for transportation at the time of its sale to Mr. Ahmad. The evidence further establishes that the Respondents were aware of that.
39. The Report listed numerous mechanical issues that Mr. MacMillan advised would have rendered it non-compliant with the MVA at the time of purchase. An independent mechanic confirmed approximately one month after its sale to Mr. Ahmad that the vehicle was not recommended for driving due to the worn wheel bearings. Further, Mr. Chan admitted in the course of the Authority’s investigation of Mr. Ahmad’s complaint that he was aware of the Vehicle’s mechanical deficiencies prior to its sale and admitted that it should not have been sold given its mechanical state.
40. Turning to the Purchase Agreement, that document states that the Vehicle was in compliance with the requirements of the MVA but it does not indicate in the space provided that it is not suitable for transportation. Beyond a general denial of this allegation, the Respondents have offered no evidence to refute it.
41. Having considered all of the evidence, I find that Messiah breached section 22 of the MDAR by failing to indicate on the Purchase Agreement that the Vehicle was not suitable for transportation.

d. Section 27(b) Motor Dealer Act Regulation – Must affix statement to vehicle if not suitable for transportation

42. As noted above, I have determined that Vehicle was not suitable for transportation at the time of Mr. Ahmad’s purchase. On that basis, the Respondents were obligated to affix to the Vehicle a statement indicating it as such. There is no evidence that this was done and the Respondents have offered no evidence to refute the allegation. I therefore find that Messiah breached section 27(b) of the MDAR for failing to affix to the Vehicle a statement that it was not suitable for transportation.

e. Section 33(2)(i)(iii) – Licensee must not aid, abet or cause a person to contravene any other law of British Columbia or another jurisdiction

43. I pause to consider the evidence of Mr. MacMillan. The Authority does not seek to rely on his evidence as expert opinion pursuant to section 10 of the *Evidence Act*. Instead, his

evidence is simply included in support of the Authority's argument that the Vehicle did not comply with the MVA at the time of sale. Mr. MacMillan's evidence was included in Mr. Collier's affidavit and it was open to the Respondents to challenge that evidence. They chose not to do so. Mr. MacMillan has given similar evidence in previous matters in his capacity as a CVSE inspector (*Re: Best Import, supra*, at paragraph 64) and it is therefore open to me to consider Mr. MacMillan's evidence in this matter.

44. The evidence of Mr. MacMillan is that the Vehicle would not have been compliant with the MVA at the time of purchase given the details in the Report although he does not specifically identify which section was applicable. Section 219 of the MVA prohibits the operation of a motor vehicle on a highway unless it is equipped in all respects in compliance with that Act and its regulations. Further, section 75 of the MVA provides that anyone who contravenes a section of that Act by doing an act that it forbids, or omitting to do an act that it requires to be done commits an offence.
45. While the Authority argues that by allowing the Vehicle to be driven from the dealership onto public roads when not suitable for transportation Messiah aided, abetted or caused Mr. Ahmad to contravene section 75 of the *Motor Vehicle Act*, I do not agree. Section 75 of the MVA is not a provision that can be breached in the technical sense. Rather, it is a consequential provision that is engaged by a separate or primary breach as it clearly states that where a person does something they should not, or does not do something they are required to do, they will have committed an offence. What must first be determined is whether the initial breach occurred and if so, which provision.
46. As noted above, Mr. MacMillan was of the view that the Vehicle would not have complied with the MVA if its bearings were damaged or loose. The mechanical inspection by Chilliwack Mitsubishi confirmed that this was in fact the case and recommended that the Vehicle not be operated until the repairs were completed. The Respondents' own inspection report recommended replacement of the Vehicle's bearings and Mr. Chan admitted the Vehicle should not have been sold in its condition. Therefore, it can be concluded that when Mr. Ahmad drove the Vehicle away from the Respondents' dealership and onto the highway, it did so in contravention of section 219 of the MVA and this contravention was aided, abetted or caused by the Respondents.

47. In *Tibbo, supra*, Registrar Christman commented on the broad nature of section 33(2)(i) as follows:

[21] Finally, this provision is very broad. It prohibits assisting in some way the breaking of any law. For a licensee to defend themselves when this allegation is made, there needs to be enough particularity so that a licensee knows what case they must meet. Sometimes, facts will support a breach of various laws. For instance, making a deliberate misrepresentation about payments causing a person to pay more than they should, could be a breach of the BPCPA and could also be criminal fraud.

(emphasis added)

48. Applying this reasoning, while Mr. Ahmad did not, in my view, breach section 75 of the MVA, he did drive a motor vehicle on a highway that was not compliant with the MVA and its regulations contrary to section 219 of that Act. The Hearing Notice and Mr. Collier's affidavit included sufficient particulars of this to allow the Respondents to know the case they had to meet.

49. As to the Registrar's ability to make findings of contraventions of legislation other than the MDA and its regulations, I refer to the comments of Registrar Christman in *Re: Salame* (April 1, 2021):

[11] The Registrar can consider allegations of a criminal nature when assessing suitability for licensing. The Registrar cannot act as a criminal court and find criminal liability. However, if the Registrar finds that the alleged conduct occurred, the role of the Registrar is to take steps to protect the public from potential harm: 7679 [Greico] v. Registrar, Motor Vehicle Dealers Act (August 2, 2013, Ont. Licence Appeal Tribunal)

50. In other words, I am not making a finding of a contravention of section 219 of the MVA in the place of a court or other tribunal with jurisdiction to do so or to determine whether an offence has been committed under that legislation. Rather, I am making a finding that the alleged conduct occurred in a manner contrary to section 219 for the purpose of my application of the MDAR. In that respect, I find that Messiah breached section 33(2)(i)(iii) by aiding, abetting or causing Mr. Ahmad to breach section 219 of the *Motor Vehicle Act* in driving the Vehicle from Messiah's lot onto a highway.

VIII. Summary of Findings

51. I therefore make the following findings

- a. Messiah committed or engaged in a deceptive act or practice in respect of a consumer transaction contrary to section 5(1) of the BPCPA by making an oral, written, visual, descriptive or other representation that the Vehicle was of a particular standard or quality when it was not, within the meaning of section 4(3)(a)(ii) of the BPCPA;
- b. Messiah committed or engaged in a deceptive act or practice in respect of a consumer transaction contrary to section 5(1) of the BPCPA by making an oral, written, visual, descriptive or other representation that uses exaggeration, innuendo or ambiguity about a material fact, or that fails to state a material fact, where the effect is misleading, within the meaning of paragraph 4(3)(b)(vi) of the BPCPA;
- c. Messiah failed to ensure that any written representation including every purchase order, sales agreement or form of contract used in a consumer transaction for the purchase of a motor vehicle not intended for transportation contains a statement that the motor vehicle is not suitable for transportation and is sold for parts only or purposes other than transportation, contrary to section 22 of the MDAR;
- d. Messiah failed to affix information to the Vehicle that was not suitable for transportation in a clear and legible manner the statement “Not Suitable for Transportation”, contrary to subsection 27(b) of the MDAR; and
- e. Messiah aided, abetted or caused Mr. Ahmad to contravene section 219 of the *Motor Vehicle Act* by allowing the Vehicle to be driven from its dealership and onto a highway when it was unsuitable for transportation, contrary to paragraph 33(2)(i)(iii) of the MDAR.

52. I do not find that Mr. Chan breached any provisions of the MDA, MDAR or BPCPA.

IX. Penalty Sought

53. It is well established that both liability and penalty can be addressed in a single hearing without offending the principles of procedural fairness: *Best Import Auto Ltd. v. Motor Dealer Counsel of British Columbia*, 2018 BCSC 834 at para. 50-52

a. Administrative Penalty

54. The Authority seeks two separate administrative penalties against Messiah. No Administrative Penalty is sought against Mr. Chan. The proposed administrative penalties in respect of Messiah are as follows:
- a. \$40,000 pursuant to section 26.04 of the MDA; and
 - b. \$20,000 pursuant to section 164 of the BPCPA.
55. In its Response, the Respondents seek “a significant reduction in the penalty that is being proposed.”
56. The maximum administrative penalty which can be imposed under the MDA on a corporation is \$100,000 while the maximum under the BPCPA is \$50,000: sections 26.05 MDA and section 165 BPCPA.
57. It is open to the Authority to seek separate administrative penalties under the MDA and BPCPA given the distinct contraventions under the different legislation: see *Re: N.W. Auto Depot Ltd. et al.* 2018-BCRMD-033 at paragraph 76.
58. The purpose of administrative penalties is to deter future misconduct. In assessing whether to impose an administrative penalty and if so, the amount, I am required to consider the legislative factors in the MDA and BPCPA while also considering common law principles including proportionality, the need for specific and general deterrence and that the penalty is not punitive in nature while not simply being the cost of doing business: *Re: Affordable Auto Sales and Services Inc.* 2019-BCRMD-030 at paragraph 25.
59. The factors to be considered in the MDA and the BPCPA prior to imposing an administrative penalty are the same. They are as follows:
- a) previous enforcement actions for contraventions of a similar nature by the person;
 - b) the gravity and magnitude of the contravention;
 - c) the extent of the harm to others resulting from the contravention;
 - d) whether the contravention was repeated or continuous;
 - e) whether the contravention was deliberate;
 - f) any economic benefit derived by the person from the contravention;
 - g) the person's efforts to correct the contravention.

60. Prior to considering these factors, I note that in its Response, the Respondents requested a hearing to present submissions as to penalty. The Respondents were invited to apply under Rule 30.4 of the Registrar's Rules for an in-person hearing for that purpose or in the alternative, to provide a written response to the Authority's Reply. Despite these invitations, the Respondents did not request an in-person hearing and did not file a response to the Authority's Reply.
61. Turning to the statutory factors, the parties agree that there have been no previous enforcement actions for contraventions of a similar nature by Messiah. They also agree that the contraventions were not repeated or continuous. The absence of these factors forms part of my consideration as to whether an administrative penalty is appropriate.
62. The Authority submits that the gravity and magnitude of the contraventions are significant given the risk of personal injury. The Respondents acknowledge that there was a risk of injury but that no injury occurred and that this should reduce any administrative penalty that is imposed.
63. In *Tibbo, supra*, Registrar Christman described the gravity of the contravention as equating to the seriousness of the contravention and the risk to the public. This undermines the Respondents' argument that as no actual injury occurred, this factor is not one that should be considered or given less weight.
64. The MDA and its regulations and the BPCPA are consumer protection legislation. Their purpose is to provide protection for consumers who are engaged with suppliers in the course of consumer transactions. Given the mechanical deficiencies of the Vehicle, there was a risk of personal injury to Mr. Ahmad and others, including his passengers, using the highway if the deficiencies were to have led to an accident. Simply put, the Vehicle should not have been on the road. This was a serious contravention and that the injury did not occur is not a mitigating factor in favour of Messiah. I find that this factor supports the appropriateness of an administrative penalty.
65. The question of whether Mr. Ahmad suffered harm as a result of the infractions is unclear. There is no evidence of any out of pocket expense paid by him to have the Vehicle's wheel bearings repaired. The Service Order from Chilliwack Mitsubishi dated December 20, 2023 which is in respect of the wheel bearings includes a total invoice amount of \$0.00. The Respondents say that they have offered to pay for the repair of the wheel bearings.

The only other invoice provided is with respect to a separate brake repair on January 4, 2024. As the various breaches of the BPCPA and MDAR related to the safety and suitability of the Vehicle for transportation due to the condition of the wheel bearings and not the brakes, I find the harm suffered by Mr. Ahmad to have been minimal.

66. The Respondents say that the contraventions were not deliberate. I disagree. Chilliwack Mitsubishi recommended that the Vehicle not be driven given its damaged wheel bearings. Messiah's own Report reflected the need for the bearings to be replaced. Mr. Chan admitted to Mr. Collier that the Vehicle should not have been sold given its condition but he allowed that to occur due to pressure he was under from Mr. Barinj to sell the Vehicle. Mr. Chan held a management position at Messiah and could have directed Mr. Barinj either not to sell the Vehicle or to sell it after it was properly marked not suitable for transportation. He did neither. This is a factor to be considered in determining whether an administrative penalty is appropriate.
67. Mr. Ahmad paid Messiah \$17,450.03 for the Vehicle. In his Complaint he noted that he intended to use the Vehicle "for family and taking my sisters to school." In other words, its purpose was for transportation. Had Messiah not committed the contraventions, it is likely that Mr. Ahmad would not have purchased the Vehicle as it could not have been used for his stated purpose. Messiah therefore derived an economic benefit from the contravention which is a factor that supports the appropriateness of an administrative penalty.
68. Mr. Ahmad purchased the Vehicle almost two years ago. As noted above, it is unclear as to whether the repairs to the wheel bearings were completed and if so, at what cost to Mr. Ahmad. The Respondents say that they made efforts to correct the contravention. In their Response they say they are "prepared" to pay for the replacement of the wheel bearings and that it in fact "offered" to pay for the replacement of the wheel bearings. The Respondents have offered no evidence to support this argument and I do not find there to have been efforts made by the Respondents to correct the contravention which supports the appropriateness of an administrative penalty.
69. In addition to the aforementioned, I have reviewed three recent undertakings that are instructive in determining the appropriate administrative penalty. In doing so, I note that undertakings do not follow formal compliance hearings but rather are proposals from motor dealers to the Registrar intended to resolve complaints without the necessity of a

hearing. For that reason, the administrative penalties included in the various undertakings may be less than otherwise assessed following a full, contested hearing.

70. In *Re: AutoCanada Maple Ridge Auto GP Inc.* (June 26, 2025), the Registrar accepted an undertaking from the motor dealer that included an administrative penalty of \$30,000. The contraventions were restricted to the MDAR and included sections 22 and 33(2)(i)(iii), similar to the present case. There were distinguishing factors in that case as the motor dealer was found to have employed an unlicensed salesperson while also failing to respond to the Registrar in the course of the investigation.

71. In *Re: Arrow Volkswagen* (May 8, 2025) the Registrar accepted an Undertaking from the motor dealer that included an administrative penalty in the amount of \$30,000. In that case the motor dealer was found to have sold a vehicle that was unsuitable for transportation and not in compliance with the MVA contrary to section 33(2)(i)(iii) of the MDAR. The motor dealer also failed to complete the required statutory declarations in the purchase agreement as required by section 23 of the MDAR. The motor dealer was also found to have committed a deceptive act or practice contrary to section 5(1) of the BPCPA.

72. In *Re: CoCo Auto Group* (October 1, 2024) the Registrar accepted an Undertaking from the motor dealer that included an administrative penalty in the amount of \$35,000. In that case, the motor dealer was found to have breached section 33(2)(i)(iii) of the MDAR while also failing to make required disclosures on the purchase agreement.

73. Having considered the statutory and common law factors, I am of the view that it is appropriate to issue an administrative penalty against Messiah in the amount of \$40,000.

b. Compliance Order

i. Reimbursement to Mr. Ahmad

74. The Authority submits that Mr. Ahmad should be reimbursed money by Messiah as compensation pursuant to section 26.02(4) of the MDA and section 155(4) of the BPCPA.

75. Having reviewed Mr. Collier's affidavit, there is no evidence to support the imposition of such an order. The Service Record prepared by Chilliwack Mitsubishi in respect of the wheel bearings does not have an invoiced amount and it is unclear if the work was completed. In its Response, the Respondents say that they are "prepared to pay for the replacement of the wheel bearings and brakes, as necessary" which would indicate that

the required work was not completed. There is no evidence provided from Mr. Ahmad as to any expenses he has incurred that flow from the established breaches of the legislation by the Respondents.

76. Having considered all of the circumstances, I decline to order reimbursement or compensation to Mr. Ahmad by Messiah as part of the Compliance Order.

ii. Authority Investigation Costs

77. The Authority seeks reimbursement by Messiah of all or part of its actual costs, including actual legal costs, incurred for any inspection or investigation of the contraventions.

78. Section 26.02(4)(d) of the MDA and section 155(4)(d) of the BPCPA authorize the Registrar to order reimbursement of the Authority's actual costs, including actual legal costs incurred for the inspection or investigation of a licensee. I am of the view that it is appropriate to make this order generally but I will adjourn the question of quantum pending receipt of written submissions which are to include particulars of the actual costs incurred.

79. The Authority may provide written submissions on quantum of costs to me within 14 days of receiving a copy of this Decision with a copy to be sent to the Respondents. The Respondents will then have 14 days to respond to the Authority's submissions. I will prepare a decision as to the quantum of costs thereafter.

X. Summary of Decision on Penalty

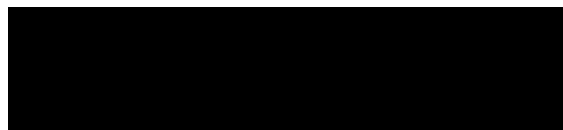
80. In summary, given the aforementioned findings with respect to liability, the following compliance action is ordered:

- a. Messiah shall pay a combined total administrative penalty in the amount of \$40,000;
- b. A compliance order is issued pursuant to section 26.02 of the MDA and section 155 of the BPCPA that provides that Messiah shall comply with the MDA, the BPCPA and the regulations made thereunder.
- c. A compliance order shall be issued that orders Messiah to reimburse the Authority's actual costs, including legal costs, with the quantum to be assessed following receipt of further written submissions from the parties.

XI. Right of Review of Decision

81. This decision may be reconsidered pursuant to sections 26.11 and 26.12 of the MDA and sections 181 and 182 of the BPCPA. A Request for Reconsideration must be submitted in writing within 30 days of receiving the compliance order and notice of administrative penalty. The request may be filed electronically to hearings@vsabc.ca or by mail to the Authority.
82. This decision may also be reviewed by petition to the BC Supreme Court pursuant to the *Judicial Review Procedure Act* within 60 days of receiving this decision: section 7.1 of the MDA and section 57 of *the Administrative Tribunals Act*.

Signed this 14 day of August, 2025

A large black rectangular box redacting the signature of Patrick Poyner.

"Original signed"

Patrick Poyner
Registrar of Motor Dealers